

FEB - 6 2013

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUITUnited States Court of Appeals
District of Columbia CircuitUNITED STATES COURT OF APPEALS
FOR DISTRICT OF COLUMBIA CIRCUIT

FILED

FEB - 6 2013

CLERK

UNITED STATES OF AMERICA,
Appellee

1:08-CR-271-RCL-1

v.

Case No. 10-3088

Eddie Ray: Kahn,
AppellantJudicial Notice of Appellant's
refusal of Order dated 1-10-13

Defendant in Error

440 This is Judicial Notice that I am refusing the "Order" from this Court that I received dated 1-10-13 for the following reasons:

1. The "Order" is invalid because it is not authenticated. 62 Stat. 945 clearly states: "All writs and process issuing from a court of the United States shall be under the seal of the court and signed by the clerk thereof."

This "Order", like all the process I have received from this Court to date, does not have the seal of the court affixed to it and is not signed by the clerk as mandated by Congress. If this is a valid Order, resend this Order to me with the seal of the court affixed to it and signed by the clerk as required by law.

2. Mark Determan, the attorney allegedly representing the UNITED STATES OF AMERICA, did not send me a copy of his Motion for Extension of Time. Therefore, I did not have an opportunity to object to his request, and I would have most certainly objected.

To verify that Mr. Determan did not send me a copy as required by the Court rules and the Constitutional requirement of the Due Process of Law clause, I contacted my Counselor at Rivers Correctional Institution, Ms. Chamblee. Ms. Chamblee logs in all legal mail that comes to RCI for inmates in my Unit. She does not give it to the inmate until the inmate signs her log book stating

that he has received it. There was nothing from the Department of Justice for me since 11-15-12.


In reviewing the Court docket sheet, it appears that Mr. Determan requested the extension of time on 1-9-13 and Mark Butler, Deputy Clerk, granted his Motion one day later, on 1-10-13. Since I am supposed to get 14 days to object to any Motion by Mr. Determan by rule, and since I definitely would have objected, I am demanding that this Court cancel the "Order" and require the Appellee to respond to the Appeal immediately as the "Order" violated my 5th Amendment Right to Due Process of Law.

3. Mark Determan has not proven that he is Constitutionally and Congressionally authorized to represent the Appellee, and I have challenged his lawful authority to do so. The U.S. Supreme Court in Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380, has stated that it is my responsibility to make sure that Mr. Determan is not a "de facto officer".

I have demanded a copy of his Appointment Affidavit to verify that he is acting within the bounds of his authority. He has refused to provide it even though it is a Public Record and I have a Right to get a copy of it, as it can be obtained from the DOJ via the Freedom of Information Act.

Until Mr. Determan provides me a copy of his Appointment Affidavit and a copy of the Act of Congress that authorizes his office to represent the Appellee, the UNITED STATES OF AMERICA, I will not accept any filing that he does on behalf of the UNITED STATES OF AMERICA as being valid. In fact, if Mr. Determan does file any document on behalf of the Appellee without providing the requested documents to prove he is Constitutionally and Congressionally authorized to do so, I am asking for this Court to sanction him pursuant to the Court rules.

Date: 2-4-13



Eddie Ray: Kahn

P.O. Box 630

Winton, North Carolina 27986

STANDARD FORM 61
REVISED SEPTEMBER 1970
U.S. CIVIL SERVICE COMMISSION
F.P.M. CHAPTER 295
61-107

OMB APPROVAL NO. 50-R0118

APPOINTMENT AFFIDAVITS

U. S. Circuit Court Judge

(Position to which appointed)

October 19, 1987

(Date of appointment)

District of Columbia

(Department or agency)

(Bureau or division)

Washington, D. C.

(Place of employment)

I, DAVID BRYAN SENTELLE, do solemnly swear (or affirm) that—

A. OATH OF OFFICE

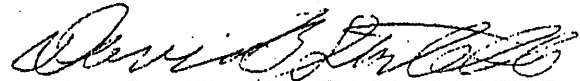
I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

C. AFFIDAVIT AS TO PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.



(Signature of appointee)

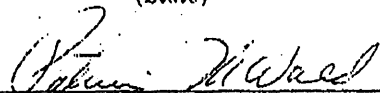
Subscribed and sworn (or affirmed) before me this 19th day of October A.D. 1987,

at Washington, D. C.

(City)

(State)

[SEAL]



(Signature of officer)

Commission expires _____
(If by a Notary Public, the date of expiration
of his Commission should be shown)

Chief Judge, U. S. Circuit Court of Appeals
(Title)
for the District of Columbia Circuit


NOTE—The oath of office must be administered by a person specified in 5 U.S.C. 2903. The words "So help me God" in the oath and the word "swear" wherever it appears above should be stricken out when the appointee elects to affirm rather than swear to the affidavits; only these words may be stricken and only when the appointee elects to affirm.

Test: George A. Fisher

United States Court of Appeals

for the District of Columbia Circuit

☆ U.S. G.P.O. 1983-381-526/8281

 Deputy Clerk

STANDARD FORM 61
REVISED SEPTEMBER 1970
U.S. CIVIL SERVICE COMMISSION
F.P.M. CHAPTER 295
61-107

OMB APPROVAL NO. 50-R0118

APPOINTMENT AFFIDAVITS

Administrative Law Judge

January 19, 1986

(Position to which appointed)

(Date of appointment)

FCC

ALJ

Washington, DC

(Department or agency)

(Bureau or division)

(Place of employment)

I, Richard L. Sippel, do solemnly swear (or affirm) that—

A. OATH OF OFFICE

I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

B. AFFIDAVIT AS TO STRIKING AGAINST THE FEDERAL GOVERNMENT

I am not participating in any strike against the Government of the United States or any agency thereof, and I will not so participate while an employee of the Government of the United States or any agency thereof.

C. AFFIDAVIT AS TO PURCHASE AND SALE OF OFFICE

I have not, nor has anyone acting in my behalf, given, transferred, promised or paid any consideration for or in expectation or hope of receiving assistance in securing this appointment.

Richard L. Sippel
(Signature of appointee)

Subscribed and sworn (or affirmed) before me this 21 day of January A.D. 1986

at Washington,

DC

(City)

(State)

[SEAL]

Deborah Berry
(Signature of officer)

Commission expires _____

Personnel Assistant

(If by a Notary Public, the date of expiration of his Commission should be shown)

(Title)

NOTE.—The oath of office must be administered by a person specified in 5 U.S.C. 2903. The words "So help me God" in the oath and the word "swear" wherever it appears above should be stricken out when the appointee elects to affirm rather than swear to the affidavits; only these words may be stricken and only when the appointee elects to affirm the affidavits.

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

UNITED STATES OF AMERICA,
Appellee

1:08-cr-271-1

v.

Eddie Ray: Kahn,
Appellant
Defendant in Error

Case Number 10-3088
Judicial Notice of Appellant's
refusal of Order dated 1-2-13

I am refusing the "Order" issued by this Court on January 2, 2013 for the following reasons:

1. The "Order" is invalid because it is not authenticated. 62 Stat. 945 clearly states: "All writs and processes issuing from a court of the United States shall be under the seal of the court and signed by the clerk thereof."

62 Stat. 947 also states: "The records and judicial proceedings of any court of any such States, Territory or Possession, or copies thereof, shall be proved or admitted in other courts within the United States and its Territories and Possessions by the attestation of the clerk and the seal of the court annexed, if a seal exists, together with a certificate of a judge of the court that said attestation is in proper form."

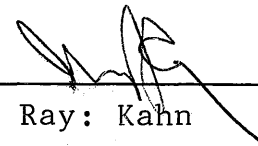
This "Order" does not have the seal of the court affixed to it and is not signed by the clerk as mandated by Congress. If this is a valid Order, resend this Order to me with the seal of the court affixed to it and signed by the clerk as required by law, as I plan to use the "Orders" and "Judgements" of this Court as evidence in other court Actions.

PROOF OF SERVICE

I hereby certify that I have mailed a copy of Judicial Notice of Appellant's refusal of Order dated 1-2-13 and Judicial Notice of Appellant's refusal of Order dated 1-10-13 to Mark S.

Determan, U.S. Attorney's Office, 555 4th Street, NW,
Washington, D.C. 20530 via prepaid first class mail postage on

2-4-13.



Eddie Ray: Kahn

P.O. Box 630

Winton, North Carolina 27986

2. In the "Order", it states: "In a July 13, 2012 letter, the Clerk's office informed appellant that the judges appointed to the bench of the United States Court of Appeals for the District of Columbia are Article III judges, as the District of Columbia Circuit is a federal court established by the United States Congress under Article III of the Constitution."

That statement is in Error, as it does not matter if the Building was created originally as an Article III courthouse. What matters, according to the U.S. Supreme Court, is the status of the judges sitting on the bench.

In Nguyen v. United States, et al., 539 U.S. 69, the Court states: "Panel of the Court of Appeals consisting of two Article III judges and one Article IV territorial judge did not have the authority to decide defendants' appeals;".

A "territorial" judge is an Executive branch office. Their office was not created by Section 8 of the Judiciary Act of 1789, which created the Article III Judiciary Courts.

Question: How is someone supposed to accurately ascertain the judicial status of a judge? We ask for a copy of his/her Appointment Affidavit. If it is a Standard Form 61 Appointment Affidavit (SF 61 Form), that judge is an Executive branch employee. The 3 Oaths that are printed on the SF 61 Form are taken only by men and women entering into employment of the Executive branch of government. (See 5 USC 2903 & 3331).

David Sentelle, the Chief Judge of this Court of Appeals, signed a SF 61 Form, thereby accepting a Civil Service Commission (Ex. A). Richard Sippel, the Chief Administrative Law Judge at the FFC, signed the same form and took the same Oaths, (Ex. B). However, Mr. Sippel admits to being an employee of the Executive branch of government. David Sentelle seems reluctant to admit that he took a Civil Service Commission, which would confirm the fact that he works for the Executive brand of government. Rogers, Griffith and Kavanaugh seem to have that same reluctance to verify which branch of government they work for.

Proof of my allegation can be seen by examining the SF 61 Form of Administrative Law Judge Richard Sippel, who accepted a Civil Service Commission by taking the same Oaths and signing the same Form that Judge Sentelle did (Ex. B). They are both the same, confirming the fact that they both work for the same branch of government, correct? If you disagree, please explain your position with documented evidence as Ex. A & B appear to rebut your allegation. Also, please provide the Act of Congress that supports your position.

What your "Order" is saying, essentially, is "Trust me, I would not lie to you." However, the U.S. Supreme Court warned all Americans about being naive, stating in Federal Crop Ins. Corp. v. Merrill, 332 U.S. 380, that: "Anyone entering into an arrangement with the government takes the risk of having accurately ascertained that he who purports to act for the government stays within the bounds of his authority, even though the agent himself may not be aware of the limitations upon his authority."

The Supreme Court has also addressed the issue of judges acting outside their jurisdiction. "When a judge clearly knows that he lacks jurisdiction, or acts in the face of clearly valid Constitutional provisions of valid statutes expressly depriving him of jurisdiction or judicial capacity, judicial immunity is lost", Rankin v. Howard, 633 F.2d 844 (1980), Denzeller v. Rankin, 101 S.Ct. 2020 (1981) (Underlining added).

I will allow Rogers, Griffith and Kavanaugh to prove their jurisdiction in either of 2 ways.

- a. Give me a copy of their Appointment Affidavits, or,
- b. Give me a copy of a notarized affidavit stating that their office was ordained and established by Section 8 of the Judiciary Act of 1789.

To be truthful, I do not understand why there has been such a delay in the Court sending me the requested documents. These documents are Public Record. They can be obtained by submitting a Freedom of Information Act request to the Department of Justice.

In the past, I have received, from the DOJ, copies of the Appointment Affidavits of a number of federal judges. The only reason I have asked this Court to furnish me with these documents is because it takes sometimes 2-3 months to receive the documents from the DOJ. This Court can give me these documents in 2-3 days.

As I stated in my Appeal, the judge's office that can hear a common law Action, which is what I submitted to this Court, was created by Section 8 of the Judiciary Act of 1789. According to the U.S. Supreme Court, it is my responsibility to make sure I have filed my Appeal in the proper court before a proper judge to get my relief. That is what I am attempting to do.

This is a jurisdictional challenge, and there are many U.S. Supreme Court cases that state that, once jurisdiction is challenged, everything must stop until jurisdiction is proven, not merely alleged or assumed.

"The law provides that once State and Federal jurisdiction has been challenged it must be proven", Main v. Thiboutot, 100 S.Ct. 2502 (1980); Once jurisdiction is challenged, it must be proven", Hagens v. Lavine, 415 U.S. 533.

Until I received the requested documents that will prove Rogers, Griffith and Kavanaugh have judicial capacity to hear this common law Action, I will not accept any "Order" or "Judgment" as valid.

3. Furthermore, since there seems to be a real reluctance on the part of Rogers, Griffith and Kavanaugh to verify that their office was created by Section 8 of the Judiciary Act of 1789. I am now asking not only for a copy of their Appointment Affidavits, but also a copy of their bonds.

According to 62 Stat. 947, which states: "Copy of officer's bond - Any person to whose custody the bond of any officer of the United States has been committed shall, on proper request and payment of the fee allowed by any Act of Congress, furnish certified copies thereof, which shall be prima facie evidence in any court of the execution, filing and contents of the bond."

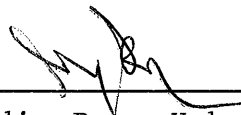
The bonds are also Public Record, and a simple request is all that is necessary to get them. Please have the Clerk of the Court advise me of the cost to certify copies of the bonds and I will promptly forward it.

Additionally, I want a copy of the bond of the Clerk of the Court.

Notice: I am refusing to accept any "Order" or "Judgment" that comes from this Court that is not authenticated with the Seal of the Court and the Clerk of the Court's signature as required by 62 Stat. 945 and 62 Stat. 947. That includes all previous "Orders" issued in this Case. If those Orders were valid in every other respect, please resend them properly authenticated and I will accept them.

I am also refusing to accept any "order" or "Judgment" that came from Rogers, Griffith and Kavanaugh until I have verified that they are Judicial and not Executive branch employees pursuant to the U.S. Supreme Court's admonition in Federal Crop Ins. Corp. v. Merrill.

Date: 2-4-13



Eddie Ray: Kahn
P.O. Box 630
Winton, North Carolina 27986